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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,569	11/25/2003	Timothy J. Peter	013002-9051-00	5790
23409	7590	08/09/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			TORRES, ALICIA M	
ART UNIT		PAPER NUMBER		
3671				

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/721,569	PETER ET AL.	
	Examiner	Art Unit	
	Alicia M. Torres	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 May 2005.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-13 and 16-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 9-11 and 19 is/are allowed.  
 6) Claim(s) 1,3-7,12,13 and 16-18 is/are rejected.  
 7) Claim(s) 8 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 4/11/05, 3/24/05.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-7 and 13, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss EP 0009774 in view of Van Ranst 2,965,910 and Winter 5,983,613.

3. Regarding claims 1, 3-7, Nuss discloses a lawn and garden implement comprising:  
A lawnmower (4) having a deck, a mower handle (3) extending upwardly from said deck to facilitate manipulating said lawnmower (4), an engine (unnumbered) supported by said deck, a cutting blade (not shown) under said deck and rotating under the influence of said engine, a discharge opening (5) in said deck through which vegetation clippings cut by said cutting blade may escape from under said deck;

a collecting apparatus (1) for collecting said clippings, said collecting apparatus (1) including a plurality of substantially rigid walls at least partially defining a collection space, a collecting opening (not shown) communicating with said collection space, and at least one wheel (12) rotatable with respect to the rest of said collecting apparatus (1);

a handle (11) coupled to the collecting apparatus (1); and

means for releasably mounting said collecting apparatus (1) to said lawnmower (4) such that said discharge opening (5) is substantially aligned with said collecting opening to cause

clippings to flow into said collection space, and such that said at least one wheel (12) is in a stowed condition and supports substantially no weight of said collecting apparatus (1) when said collecting apparatus (1) is mounted to said lawnmower (4);

wherein said at least one wheel (12) at least partially supports said collecting apparatus (1) upon the detachment of said collecting apparatus (1) from said lawnmower (4) to facilitate hauling away clippings in said collecting apparatus (1), as per claim 1.

However, Nuss fails to disclose wherein the handle is pivotable with respect to the collecting apparatus between a first position and a second position, said handle including means responsive to movement of the handle to the first position for inhibiting pivotal movement of the handle from said first position with respect to the collecting apparatus when said handle is in said first position, and means responsive to movement of the handle to the second position for inhibiting pivotal movement of the handle from said second position with respect to the collecting apparatus when said handle is in said second position; and

Wherein the collecting apparatus has an open top and further includes a removable screen over the to pen top to resist the escape of clippings from the collection space during operation of the lawnmower and hauling of clippings in the collecting apparatus, the screen being removable from the rest of the collecting apparatus without the use of tools to facilitate dumping the clippings out of the collection space, as per claim 1; and

wherein said first position is a mowing position and said second position is a hauling position, said handle being in said mowing position when said collecting apparatus is mounted to said lawnmower and in said hauling position when hauling clippings in said collecting apparatus, as per claim 3; and

wherein said handle is pivotable about a pivot axis between said first and second positions, and wherein at least one of said means for inhibiting pivotal movement includes means for releasably locking said handle to permit said collecting apparatus to be tipped about an axis generally parallel to said handle pivot axis by a moment force applied to said handle, as per claim 4; and

further comprising means for releasably locking said handle in said mowing position, wherein said means for releasably mounting said collecting apparatus to said lawnmower requires that said collecting apparatus be lifted to remove said collecting apparatus from said lawnmower, and wherein said collecting apparatus is liftable with respect to said lawnmower by way of said handle when said handle is locked in said mowing position, as per claim 5; and

wherein said handle includes first and second arms and a cross member between first ends of said arms, wherein second ends of said arms are pivotally interconnected with said collecting apparatus, as per claim 6; and

wherein said collecting apparatus includes first and second pivot pins fixed with respect to said substantially rigid walls and defining a pivot axis for said handle, wherein said second ends of said first and second arms each have pivot apertures into which said first and second pivot pins are respectively received to interconnect said handle to said collecting apparatus such that said handle is pivotable about said pivot axis, as per claim 7.

Van Ranst discloses a similar collecting apparatus (10) wherein the handle (30) is pivotable with respect to the collecting apparatus (10) between a first position (see Figures 2 and 4) and a second position (see Figure 1), said handle (30) including means (36, 38) responsive to movement of the handle (30) to the first position for inhibiting pivotal movement of the handle

(30) from said first position with respect to the collecting apparatus (10) when said handle (30) is in said first position, and means (36, 40) responsive to movement of the handle (30) to the second position for inhibiting pivotal movement of the handle (30) from said second position with respect to the collecting apparatus (10) when said handle (30) is in said second position, as per claim 1; and

wherein said first position (see Figures 2 and 4) is a mowing position and said second position (see Figure 1) is a hauling position, said handle (30) being in said mowing position when said collecting apparatus (10) is mounted to said lawnmower (48) and in said hauling position when hauling clippings in said collecting apparatus (10), as per claim 3; and

wherein said handle (30) is pivotable about a pivot axis between said first and second positions, and wherein at least one of said means (38, 40) for inhibiting pivotal movement includes means (36) for releasably locking said handle (30) to permit said collecting apparatus (10) to be tipped about an axis generally parallel to said handle pivot axis by a moment force applied to said handle (30), as per claim 4; and

further comprising means (36, 40) for releasably locking said handle (30) in said mowing position, wherein said means (58, 60) for releasably mounting said collecting apparatus (10) to said lawnmower (47) requires that said collecting apparatus (10) be lifted to remove said collecting apparatus (10) from said lawnmower (48), and wherein said collecting apparatus (10) is liftable with respect to said lawnmower (48) by way of said handle (30) when said handle (30) is locked in said mowing position (see Figures 2 and 4), as per claim 5; and

wherein said handle (30) includes first and second arms and a cross member between first ends of said arms, wherein second ends of said arms are pivotally interconnected (at 34) with said collecting apparatus (10), as per claim 6; and

wherein said collecting apparatus (10) includes first and second pivot pins (34) fixed with respect to said substantially rigid walls and defining a pivot axis for said handle (30), wherein said second ends of said first and second arms each have pivot apertures into which said first and second pivot pins (34) are respectively received to interconnect said handle (30) to said collecting apparatus (10) such that said handle (30) is pivotable about said pivot axis, as per claim 7.

Winter discloses a similar mower wherein the collecting apparatus has an open top and further includes a removable screen (40) over the open top to resist the escape of clippings from the collection space during operation of the lawnmower and hauling of clippings in the collecting apparatus, the screen (40) being removable from the rest of the collecting apparatus without the use of tools to facilitate dumping the clippings out of the collection space, as per claim 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the handle means of Van Ranst on the collecting apparatus of Nuss in order to push the cart in an inclined position.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a screen lid like that of Winter on the mower of Nuss in order to allow air to be released.

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4. Regarding claim 13, 16-18, Nuss discloses a cart (1) adapted to be removably mounted to a lawnmower (4) and collect vegetation clippings from a lawnmower (4), and also adapted for use as a utility cart for lawn and garden applications, the cart (1) comprising:

    a body (7, 8) defined by a plurality of substantially rigid walls, said walls at least partially defining a collection space;

    a collecting opening (not shown) through which vegetation clippings flow from the lawnmower (4) into said collection space when said cart (1) is mounted to the lawnmower (4);  
    a handle (11); and

    at least one wheel (12) rotatable with respect to the rest of said cart (1), said wheel (12) being in a stowed position in which it supports substantially no weight of said cart (1) when said cart (1) is mounted to the lawnmower (4);

    wherein said at least one wheel (12) at least partially supports said cart (1) upon the detachment of said cart (1) from the lawnmower (4) to facilitate hauling away clippings in said cart (1), as per claim 13; and

    wherein said body (7, 8) includes a substantially rigid bottom wall () having a plurality of edges (unnumbered) and a plurality of substantially rigid walls (8) extending up from respective ones of said edges except for one open edge of said bottom wall, and wherein said collecting opening (not shown) is defined between two of said walls and above said open edge, as per claim 18.

However, Nuss fails to disclose wherein the handle is movable between a stowed position and a deployed position, said handle including a locking portion operable to inhibit pivotal

movement of said handle from said stowed position when said handle is in said stowed position, and from said deployed position when the handle is in the deployed position;

and wherein said handle is in said stowed position when said cart is mounted to the lawnmower and in said deployed position when hauling clippings in said cart; and an open top and a removable screen over the top to prevent top to resist the escape of clippings from the collection space, the screen being removable from the rest of the cart without the use of tools to facilitate dumping the clippings out of the collection space, as per claim 13; and

wherein said locking portion enables said cart to be lifted by said handle when said handle is in said stowed position, as per claim 16; and

wherein said handle is pivotable about a pivot axis between said stowed and deployed positions, and wherein said locking portion enables said cart to be pivoted about an axis generally parallel to said pivot axis by applying a moment force to said handle when said handle is in said deployed position, as per claim 17.

Van Ranst discloses a similar cart (10) wherein the handle (30) is movable between a stowed position (see Figures 2 and 4) and a deployed position (see Figure 1), said handle (30) including a locking portion (36) operable to inhibit pivotal movement of said handle (30) from said stowed position when said handle (30) is in said stowed position, and from said deployed position when the handle (30) is in the deployed position;

and wherein said handle (30) is in said stowed position (see Figures 2 and 4) when said cart is mounted to the lawnmower (48) and in said deployed position (see Figure 1) when hauling clippings in said cart (10), as per claim 13; and

wherein said locking portion (36, 40) enables said cart (10) to be lifted by said handle (30) when said handle (30) is in said stowed position (see Figure 1), as per claim 16; and wherein said handle (30) is pivotable about a pivot axis between said stowed and deployed positions, and wherein said locking portion (36, 38, 40) enables said cart to be pivoted about an axis generally parallel to said pivot axis by applying a moment force to said handle (30) when said handle (30) is in said deployed position (see Figures 2 and 4), as per claim 17.

Winter discloses a similar device including an open top and a removable screen (40) over the open top to resist the escape of clippings from the collection space, the screen (40) being removable from the rest of the cart without the use of tools to facilitate dumping the clippings out of the collection space, as per claim 13.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the handle means of Van Ranst on the cart of Nuss in order to push the cart in an inclined position.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a screen lid like that of Winter on the mower of Nuss in order to allow air to be released.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss and Van Ranst and Winter as applied to claim 1 above, and further in view of Meyer et al., hereafter Meyer.

The device is disclosed as applied above. However, the combination fails to disclose wherein said lawnmower includes a door pivotally attached to said deck and a biasing member

biasing said door to a position covering said discharge opening; wherein said door must be opened to permit said collecting apparatus to be attached to said lawnmower, wherein said door engages a top surface of said collecting apparatus when said collecting apparatus is attached to said lawnmower; and wherein said biasing member biases said collecting apparatus to remain mounted on said lawnmower when said door engages said top surface of said collecting apparatus.

Meyer discloses a similar mower wherein said lawnmower includes a door (4) pivotally attached to said deck and a biasing member (7A) biasing said door (4) to a position covering said discharge opening (5); wherein said door (4) must be opened to permit said collecting apparatus (6) to be attached to said lawnmower, wherein said door (4) engages a top surface of said collecting apparatus (6) when said collecting apparatus (6) is attached to said lawnmower; and wherein said biasing member (7A) biases said collecting apparatus (6) to remain mounted on said lawnmower when said door (4) engages said top surface of said collecting apparatus (6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the door of Meyer on the mower of Nuss and Van Ranst in order to safely cover the discharge port when a catcher is not present.

*Response to Arguments*

6. Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection.

*Allowable Subject Matter*

7. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-11, 19 are allowed.

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.

*by M. Peters*  
Thomas B. Will  
Supervisory Patent Examiner  
Group Art Unit 3671

AMT,  
August 8, 2005